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Atty Docket: 671-9 (P9961)

REMARKS

The Office Action rejected the pending Claims 1-21 as follows: Claims 1, 2, 3, 6, 7, 15, 16, 17 and 20 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,487,182 (Hansson); Claims 4, 5, 18 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hansson in view of U.S. Patent No. 6,078,825 (Hahn et al.); Claims 8, 9 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hansson in view of U.S. Publication No. 2002/0016188A1 (Kashiwamura); Claims 10 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hansson in view of U.S. Patent No. 5,640,459 (Heeden); Claims 12 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hansson in view of Heeden and further in view of Hahn et al.; and Claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Hansson in view of Heeden and further in view of U.S. Publication No. 2003/0083024A1 (Richenstein et al.).

Claims 1, 2, 15 and 16 have been amended and a new Claim 22 has been presented. The paragraph starting at line 11 of page 9 of the specification has been amended to align the description with FIG. 3d. No new subject matter has been presented.

Claims 1 and 15, which are the independent claims in this application that were rejected in the Office Action, have been amended to include subject matter formerly presented in dependent Claims 2 and 16. Like Claims 1 and 15, Claims 2 and 16 were rejected as allegedly being anticipated by Hansson.

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In the Office Action (page 3), the Examiner alleged that the disclosure found at column 3, lines 4-14 of Hansson anticipates the additional recitations formerly presented in Claims 2 and 16.

Hansson discloses a hands free module, having an external phone unit speaker (14) and a microphone (15), usable with a phone unit (see FIG. 1). Nowhere does Hansson disclose or suggest an external speaker and external microphone *each fixedly attached to the user*, as in amended Claims 1 and 15. Rather, the microphone (15) of Hansson hangs from an "electrical cord or cable 13" (Col 2, lines 21-22). The section cited by the Examiner in regard to Claims 2 and 16 specifically discloses that "[w]hen that phone unit is fitted in the subscriber's ear, the cord will hang down, gravitationally, such that the microphone 15 is located in a position in which the sound quality is fully satisfactory" (Col. 3, lines 8-11).

Further, the "gravitationally" determined position of the hanging microphone (15) of Hansson fails to disclose or suggest *a constant spatial separation* between the external speaker and the external microphone, as in Claim 1. A hanging microphone such as that of the device of Hansson will bounce up and down when a user walks, jogs or engages in any vertically repetitive motion, resulting in a varying spatial separation. Hansson similarly fails to disclose or suggest the recitation of *a fixed spatial separation therebetween*, as in Claim 15.

None of the other cited references cure the above-described defects of Hansson, and Claims 1 and 15 are believed to be in condition for allowance. Without conceding the

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patentability *per se* of the dependent claims, Claims 2-14 and 16-21 are believed to be in condition for allowance for at least the above reasons.

In regard to newly presented independent Claim 22, as discussed above, neither Hansson nor any other cited reference, either alone or in combination, discloses nor suggests at least the recitation of *attaching the wearable speaker and the external microphone to a user to provide a fixed spatial separation therebetween*.

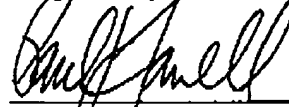
Further in regard to the dependent claims, the Examiner's rejection of Claims 3 and 17 appears to have misinterpreted Claims 3 and 17 as claiming "wherein the external speaker is an ear bud." To the contrary, Claims 3 and 17 recite further comprising an ear bud. Accordingly, the ear bud is in addition to, and is not an example of, the external speaker of Claims 1 and 15, from which Claims 3 and 17 respectively depend. The claimed subject matter of Claims 3 and 17 is shown, for example, at FIG. 3b of the specification, which shows both an external speaker (330) and an additional an ear bud (306). Item 14 of Hansson cannot anticipate both the *ear bud* and the additional *external speaker* of Claims 3 and 17.

Accordingly, it is respectfully submitted that the citation to item 14 of Hansson as disclosing both the recitation of an *external speaker* of and an *ear bud* is incorrect and fails to recognize the subject matter claimed in Claims 3 and 17. Withdrawal of the rejection of Claims 3 and 17 for this additional reason is respectfully requested.

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Accordingly, it is respectfully submitted that all of the pending claims, i.e. Claims 1-22, are in condition for allowance. If the Examiner has any questions regarding this communication, the Examiner is requested to contact the undersigned.

Respectfully submitted,



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